

*** NOT FOR PUBLICATION ***

NO. 25616

IN THE SUPREME COURT OF THE STATE OF HAWAII

JANE DOE, Individually and as Guardian of MARY SMITH, an
incapacitated adult, Petitioner-Appellee

vs.

MARY ROE, individually, Respondent-Appellant

and

THE ESTATE OF RICHARD ROE, MARY ROE, as the Executor of the
Estate of Richard Roe, JOHN DOE 1, JANE DOE 1, Respondents

APPEAL FROM THE FAMILY COURT OF THE FIRST CIRCUIT
(FC-P. NO. 02-1-0878)

ORDER DISMISSING APPEAL

(By: Moon, C.J., Levinson, Nakayama, and Acoba, JJ.
and Circuit Judge Milks, assigned by reason of vacancy)

Upon review of the record, it appears that the November 14, 2002 order denying the motion to dismiss the paternity petition and the January 3, 2003 order denying reconsideration thereof were purportedly certified for interlocutory appeal pursuant to HRS § 641-1(b), but interlocutory certification was improvidently granted because: (1) an interlocutory appeal of the November 14, 2002 order will not speedily terminate the litigation in FC-P 02-1-0878 inasmuch as the denial of the motion to dismiss was not a denial on the merits, but was merely a denial without prejudice to raising the defenses at trial; see Stafford v. MTL, Inc., 71 Haw. 644, 802 P.2d 480 (1990); and (2) absent a family court ruling on the merits of the statute of limitations defense, an interlocutory appeal of the November 14,

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2002 and January 3, 2003 orders is merely a request for the appellate court to intervene and decide an issue in an unfinished and incomplete case; see Liu v. City and County of Honolulu, 63 Haw. 668, 634 P.2d 595 (1981).

Even if the November 14, 2002 and January 3, 2003 orders were certifiable for interlocutory appeal, the February 20, 2003 certification order did not contain the findings and conclusions required by HRS § 641-1(b). See Mason v. Water Resources International, 67 Haw. 510, 512, 694 P.2d 388, 389 (1985). Therefore,

IT IS HEREBY ORDERED that this appeal is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, May 19, 2003.